

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 86 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 animals and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 15-9 IS ADDED TO THE INDIANA CODE AS
- 7 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 8 2002]:
- 9 **ARTICLE 9. PET STORE REGULATION**
- 10 **Chapter 1. Definitions**
- 11 **Sec. 1. The definitions in this chapter apply throughout this**
- 12 **article.**
- 13 **Sec. 2. "Animal distributor" means a person who buys and sells**
- 14 **animals at wholesale but does not sell animals as pets directly to**
- 15 **individual consumers.**
- 16 **Sec. 3. "Board" refers to the Indiana state board of animal**
- 17 **health established by IC 15-2.1-3-1.**
- 18 **Sec. 4. (a) "Pet store" means a place where:**
- 19 **(1) a dog;**
- 20 **(2) a cat;**
- 21 **(3) a rabbit;**
- 22 **(4) a rodent;**
- 23 **(5) a nonhuman primate;**
- 24 **(6) a bird;**

(7) any other vertebrate animal; or
 (8) any other animal customarily obtained as a pet in Indiana;
 is bought, sold, offered for sale, exchanged, or offered for adoption.

(b) The term does not include the following:

(1) A store that sells or exchanges less than six (6) animals during a twelve (12) month period.

(2) A person that sells only the animals that the person has produced and raised.

(3) A veterinary hospital or clinic operated by a veterinarian licensed under IC 15-5-1.1.

(4) An animal shelter.

(5) A place where the sale of livestock (as defined in IC 15-2.1-2-27) is conducted.

(6) A place where the sale of poultry by a commercial breeder or distributor is conducted.

(7) A place where fish are the only animals sold.

(8) A place where the sale of an animal is conducted by:

(A) an animal distributor;

(B) a research facility;

(C) a circus; or

(D) a publicly or privately owned zoological park, petting zoo, or other facility;

that is licensed or registered by the United States Department of Agriculture under the federal Animal Welfare Act of 1970, 7 U.S.C. 2131 et seq., as amended.

(c) A person does not come within the definition set forth in subsection (a) by taking any action with respect to an animal that is authorized by a license or permit issued to the person by the department of natural resources.

Chapter 2. Duties of the Board

Sec. 1. The board has the powers necessary to fulfill its duties as prescribed in this article and may adopt rules under IC 4-22-2 that prescribe standards for pet stores that are necessary to carry out this article and through which pet stores, by meeting the standards, may satisfy IC 15-9-5-1.

Sec. 2. The board may do the following:

(1) Administer and enforce this article.

(2) Issue, suspend, and revoke licenses under this article.

(3) Subject to IC 15-9-3, investigate complaints concerning licensees or persons the board has reason to believe should be licensees, including complaints regarding the failure to comply with this article or the rules adopted under this article and the failure to take appropriate action under IC 15-9-8.

(4) Bring actions in the name of the state of Indiana in an appropriate court to enforce compliance with this article or the rules adopted under this article by restraining order or injunction.

(5) Hold public hearings under IC 15-2.1-19 on any matters for which a hearing is required under this article.

(6) Establish and fix the fees for the licensing and renewal of a license under this article.

(7) Prescribe the application forms to be furnished to all persons seeking to be licensed under this article.

(8) Prescribe the form and design of the license to be issued under this article.

(9) Conduct hearings and keep records of proceedings.

(10) Subpoena and bring before the board any person in Indiana and take testimony in the same manner as prescribed by law in civil proceedings in Indiana courts.

(11) Hire the staff necessary to carry out this article.

Chapter 3. General Provisions Concerning Licensing; Licensing Fund

Sec. 1. A person may not operate a pet store unless the person has a license to operate a pet store issued under this article.

Sec. 2. (a) A person who wishes to obtain a license issued under this article must complete a license application prescribed by the board and file the application with the board.

(b) An application for a license under this article must be completed in the manner prescribed by the board.

Sec. 3. The board may not issue a license to operate a pet store until the board has inspected the premises for compliance under this article.

Sec. 4. (a) A license issued under this article expires:

(1) two (2) years after the date of issuance; or

(2) on a common biennial renewal date for all licenses that is established by the board.

(b) The fee for a license issued under this article is two hundred dollars (\$200). However, the fee for a license issued in the second year of a licensing cycle is one hundred dollars (\$100).

(c) The board shall accept the following forms of payment of fees:

(1) Cash.

(2) A draft.

(3) A money order.

(4) A cashier's check.

(5) A certified or other personal check.

(d) If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the board may void the license for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

Sec. 5. (a) The pet store licensing fund is established to implement this article. The fund shall be administered by the board.

(b) The expenses of administering the fund shall be paid from

1 money in the fund.

2 (c) The fund consists of license fees and civil penalties collected
3 under this article.

4 (d) The treasurer of state shall invest the money in the fund not
5 currently needed to meet the obligations of the fund in the same
6 manner as other public money may be invested.

7 (e) Money in the fund at the end of a state fiscal year does not
8 revert to the state general fund.

9 (f) The money in the fund is annually appropriated to the board
10 for its use in carrying out this article.

11 Sec. 6. (a) The board or its employees may inspect any pet store
12 and may enter upon any public or private property where any pet
13 store is located during the store's regular business hours for the
14 following purposes:

- 15 (1) Inspecting the property.
- 16 (2) Examining the animals.
- 17 (3) Conducting tests in regard to the presence of an infectious,
18 a contagious, or a communicable disease of the animals and
19 the possible cause and sources of any disease.
- 20 (4) Performing any other function authorized by this article.

21 (b) A conservation officer of the department of natural
22 resources may inspect any pet store and may enter upon any public
23 or private property where any pet store is located during the
24 store's regular business hours for the following purposes:

- 25 (1) Inspecting the property.
- 26 (2) Examining the animals.

27 Sec. 7. The board shall investigate any:

- 28 (1) pet store;
- 29 (2) entity that the board considers may be operating as a pet
30 store without a license;
- 31 (3) applicant for a license under this article; or
- 32 (4) licensee;

33 upon a written verified complaint by any person of a violation
34 under this article that the board considers to have merit.

35 Sec. 8. (a) The board may order a licensee under this article to
36 file with the board information concerning the business conduct of
37 the licensee and the practices and management of the business of
38 the licensee.

39 (b) The board may require that the reports and answers under
40 subsection (a) be made under oath and filed within a reasonable
41 period if the requirements are considered essential by the board.

42 Chapter 4. Renewal of a License

43 Sec. 1. (a) A person may renew a license by:

- 44 (1) completing a renewal application prescribed by the board;
45 and
- 46 (2) paying a renewal fee;

47 not later than the expiration date of the license.

(b) If a person fails to timely submit a renewal application and pay a renewal fee, the board shall send the person notification of the delinquent application and fee. If the board does not receive the renewal application and fee within fifteen (15) days after the date notice was mailed to the person, the person's license becomes invalid without any further action by the board.

Sec. 2. (a) The board may renew a license if the license holder pays the renewal fee set by the board to renew the license before the license expires.

(b) Notwithstanding subsection (a), the board may refuse to renew the license for reasons set forth in IC 15-9-6.

Chapter 5. Conduct of a Pet Store Operator

Sec. 1. The board shall adopt standards that require a pet store operator to do the following:

- (1) Maintain sanitary conditions of the premises.
- (2) Insure proper ventilation of the premises.
- (3) Provide adequate nutrition for all animals under the pet store operator's control.
- (4) Provide humane care and treatment of all animals under the pet store operator's control.
- (5) Take reasonable care to prevent disease in animals that are released for sale, trade, or adoption.
- (6) Establish a relationship with at least one (1) veterinarian to provide routine veterinary care and advice concerning the animals under the control of the pet store operator.

Sec. 2. A person who operates a pet store may not import or cause to be imported into Indiana, or offer for sale or resale, a dog or cat less than eight (8) weeks of age.

Sec. 3. (a) A pet store operator shall provide to the purchaser the following information for every dog or cat available for sale, resale, trade, or adoption:

- (1) The age and sex of the animal.
- (2) The breed of the animal.
- (3) A record of vaccination and veterinary care and treatment.
- (4) A record of surgical sterilization or lack of surgical sterilization.

(b) A pet store operator shall keep records of the information required under subsection (a) and a record of the source of each animal that is purchased and sold for at least two (2) years after the date the animal is sold.

(c) The pet store operator shall allow the board access to the information described in subsection (b) upon request during normal business hours.

Sec. 4. A person who holds a license issued under this article shall display the license in a place clearly visible to any customer.

Chapter 6. Denial, Suspension, or Revocation of a License

1 **Sec. 1. The board may refuse to issue or renew a license or may**
 2 **suspend or revoke a license for the following reasons:**

3 **(1) A material misstatement in the application for an original**
 4 **or renewal license under this article.**

5 **(2) A violation of this article or any rule adopted under this**
 6 **article.**

7 **(3) Aiding or abetting another person in the violation of this**
 8 **article or any rule adopted under this article.**

9 **(4) Making a substantial misrepresentation or false promise**
 10 **of a nature likely to influence, persuade, or induce in**
 11 **connection with the business of a licensee under this article.**

12 **(5) A conviction of a misdemeanor or felony under IC 35-46-3.**

13 **Sec. 2. (a) Upon revocation of a license, the licensee shall**
 14 **surrender the license to the board.**

15 **(b) If the licensee fails to surrender the license under subsection**
 16 **(a), the board shall seize, or cause to be seized, the license.**

17 **Sec. 3. (a) The board may:**

18 **(1) deny an application for a license or renewal of a license;**

19 **(2) suspend a license;**

20 **(3) revoke a license; or**

21 **(4) impose a civil penalty under IC 15-9-8-3;**

22 **by issuing a written notice to the applicant or licensee, stating the**
 23 **alleged violation, the board's action, and the opportunity for a**
 24 **hearing under IC 4-21.5.**

25 **(b) If the applicant or licensee does not request in writing a**
 26 **hearing before the board within fifteen (15) days after receiving**
 27 **notice under subsection (a), the applicant's or licensee's right to a**
 28 **hearing before the board is waived, and the notice becomes a final**
 29 **order under IC 4-21.5.**

30 **(c) If a hearing is requested under this section, the hearing shall**
 31 **be held under IC 4-21.5.**

32 **Sec. 4. The board may reinstate a license that has been**
 33 **suspended under this chapter if the licensee demonstrates to the**
 34 **board that the licensee is able to operate with reasonable skill,**
 35 **safety, and competency to the public. As a condition of**
 36 **reinstatement, the board may impose disciplinary or corrective**
 37 **measures designed to ensure compliance with this article.**

38 **Chapter 7. Operating a Pet Store Without a License**

39 **Sec. 1. (a) If the board determines that a person who is not**
 40 **licensed or exempt under this article is engaged in activities that**
 41 **require a license, the board may issue a cease and desist order and**
 42 **impose a civil penalty under IC 15-9-8-3 by issuing a written notice**
 43 **to the alleged violator, stating the alleged violation, the board's**
 44 **action, and the opportunity for a hearing under IC 4-21.5.**

45 **(b) If the alleged violator does not request in writing a hearing**
 46 **before the board within fifteen (15) days after receiving the notice,**
 47 **the alleged violator's right to a hearing before the board is waived,**

1 and the notice becomes a final order under IC 4-21.5.

2 (c) If a hearing is requested under this section, the hearing shall
3 be conducted under IC 4-21.5.

4 (d) The:

5 (1) attorney general;

6 (2) board; or

7 (3) prosecuting attorney of any county where a violation
8 under this chapter occurs;

9 may file an action in the name of the state for an injunction or
10 other order to enforce the board's order and this article.

11 (e) A cease and desist order issued under this section is
12 enforceable in the circuit courts.

13 Chapter 8. Enforcement

14 Sec. 1. The board is responsible for the administration and
15 enforcement of this article. The board may delegate its duties to the
16 state veterinarian, except as provided in IC 15-2.1-3-13.5.

17 Sec. 2. IC 15-2.1-20-1 and IC 15-2.1-20-2 apply to this article.

18 Sec. 3. (a) If a person violates this article or any rule adopted by
19 the board under this article, the board may do any of the following:

20 (1) Suspend the person's license.

21 (2) Revoke the person's license.

22 (3) Prohibit renewal of a license.

23 (4) Impose a civil penalty of not more than one thousand
24 dollars (\$1,000) for each violation.

25 (5) Obtain an injunction against a person who is engaging in
26 a method, an act, or a practice that violates this article.

27 (6) Issue an order of compliance directing the person to take
28 specified actions in order to comply with this article.

29 (b) The board may order a pet store closed to the public for up
30 to seventy-two (72) hours to make corrections of deficiencies
31 necessary to meet the requirements of this article. If a violation is
32 not corrected, the board may suspend or revoke the operator's
33 license.

34 Sec. 4. A person who knowingly or intentionally violates this
35 article commits a Class B misdemeanor.

36 Sec. 5. If the board has reason to believe that a person has
37 violated IC 35-46-3, the board may refer the matter to the
38 appropriate law enforcement agency for action under IC 35-46-3.

39 Sec. 6. (a) A unit (as defined in IC 36-1-2-23) may adopt an
40 ordinance concerning regulation of pet stores that includes more
41 stringent or detailed requirements than those set forth in this
42 article.

43 (b) A unit may not enforce an ordinance concerning the
44 regulation of pet stores that contains requirements less stringent or
45 detailed than those set forth in this article.

46 (c) A unit may not impose or collect a licensing or registration
47 fee for the regulation of pet stores."

Page 2, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2002] (a) **Notwithstanding IC 15-9-3, as added by this act, the operator of a pet store that is operating before July 1, 2002, may continue to operate the pet store without a license issued under IC 15-9-3, as added by this act, pending the processing of an application for a license under this SECTION.**

(b) **The operator of a pet store described in subsection (a) may submit to the Indiana state board of animal health an application for a license to operate a pet store under IC 15-9-3, as added by this act. The operator must submit the application before September 1, 2002. The Indiana state board of animal health may allow an operator to submit an application on or after September 1, 2002, for good cause.**

(c) **The operator of a pet store described in subsection (a) shall cease operating the pet store if:**

(1) **the operator fails to submit an application within the time allowed by subsection (b); or**

(2) **the Indiana state board of animal health notifies the operator that the board has rejected an application submitted by the operator under this SECTION.**

(d) **This SECTION expires January 1, 2003."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 86 as printed February 22, 2002.)

Representative Cheney